Testimony of Matthew Waggner, Registrar of Voters

S.B. No. 1057 – An Act Concerning the Secretary of the State and Early Voting
S.B. No. 1064 – An Act Concerning the Implementation of Early Voting
H.B. No. 5004 – An Act Implementing Early Voting
H.B. No. 6693 – An Act Concerning Absentee Voting

February 22, 2023

Dear Representative Blumenthal, Senator Flexer, and Members of the Government Administration and Elections Committee,

I appreciate the opportunity to submit testimony on the concepts being considered at today's hearing. Thank you for reviewing my comments on these matters, and I welcome any followup inquiries or the opportunity to provide you with additional information that you may find helpful as you develop these policies.

<u>Testimony in Support of Early Voting Proposals</u>
SB 1057, SB 1064, HB 5004

I am generally supportive of early voting and in comparing the three bills, don't prefer any one over the others. The compressed timeframes associated with special elections and referenda might make a compressed early voting schedule reasonable for those events, but future legislation will likely revise the schedule to address voter interest, costs, and other variables regardless.

Rather than remark on the differences between the proposals before you, I'd ask you to consider revisiting some of the areas where there is an apparent consensus. I do foresee several logistical issues arising from these proposals, and would make several recommendations to prevent these problems:

   1) Remove the requirement that CVRS be utilized at early voting locations, or allow usage of printed voting lists as a failsafe to prevent disruption to early voting services.

   2) Incorporate the required affidavit, voter registration / party enrollment application, acceptance / rejection indications, and voting district / ballot type on the envelope to keep all relevant information about a specific voter and their ballot together throughout the process.

   3) Provide a window of time during which ballots can be reconciled against the final voting lists and sorted for processing and counting by district, rather than holding them without review until the day of the election.

   4) Establish clear staffing guidelines for early voting locations and ballot counting to incorporate into the Secretary's separate funding proposal.

Security approach

I appreciate that the proposals effectively extend the Election Day Registration process to an expanded window, allowing any voter to register and vote in a single visit during the entire period of early voting. However, Connecticut's EDR process is massively more complicated than that in use in any other state, and only limited utilization has prevented this from becoming more widely recognized as problematic.

Put simply, our process involves two different and conflicting security paradigms (three, if you count post-election enforcement), which complicates and prevents failsafe procedures that allow us to adapt to problems that inevitably arise.

The proposals for early voting each require the use of the Connecticut Voter Registration System (or "CVRS"), the use of envelopes to preserve each ballot for counting (or rejection) until election or primary day, and the initiation of a real-time investigation with any town where a voter may have previously been registered to ascertain if they voted. We also have an Election Day Registration process on which the early voting process is being based that utilizes multi-part paperwork that separates the voter's registration form, ballot envelope with affidavit, and investigation disposition and ballot type on separate forms necessitating that each voter's information be typed or written four separate times and laboriously reconciled prior to counting.

This complicated process is not only wasteful of our time and introduces opportunities for errors, it requires that workers engaged in the process have independent expertise in CVRS, which prevents our offices from bringing the vast majority of our pollworkers to bear – even Registrars in large towns can require months or years of daily practice with CVRS to become proficient. The system is vulnerable to outages (as recently as yesterday the system was down in most of the state, disruptions occur on a local level as well), and even if service interruptions could be eliminated, problems arising from technology or training do not need to interrupt the voting process or cause delays for voters at the early voting location. **We sensibly do not require immediate computer access for our polling places or for absentee ballots** because we recognize that turning a voter away who has come to access these services would be a form of disenfranchisement, and should not introduce this obstacle into this process unnecessarily.

My recommendation is that the early voting process offered by the committee either remove the requirement that CVRS be a requirement for early voting sites or permit the use of a fail-safe like the preliminary list or official list; that the process utilize an envelope which contains both the affidavit, the necessary elements to effect a voter registration and party enrollment, and an area for officials to record whether such ballot was accepted or rejected; require that all applications be recorded in CVRS prior to preparing the final list for each polling place; and require that each such early voting ballot be indicated next to the voter in a similar manner to absentee ballot markings.

I would also associate myself with Luther Weeks' testimony concerning bipartisan chain of custody, and would note that while we may like and respect the Town Clerks that we know, placing these ballots in the sole custody of a single, (generally) partisan elected official represents a weak point in the security of these ballots.

Check-off dates

The draft proposals feature a custody process which has the Town Clerk receiving and holding voted ballots in batches until the day of the election. This introduces several problems which had previously been solved in the context of absentee ballots, in particular, what to do if a voter moves or dies (requiring their ballot be rescinded), a voter changes their mind about who they want to vote for or the list of

candidates changes after voting (requiring their ballot be reissued), or if the ballots need to be sorted, checked, or reconciled in any way prior to counting.

Voters are not going to appear at early voting locations in alphabetical order or in voting district order, and holding these ballots until the day of the election will create a logistical challenge on election day much more substantial than the one the Secretary cautions you to consider for HB 6693 on today's agenda: namely, sorting, verifying, and packaging for transportation and delivery by district hundreds or thousands of early voting ballots, which must take place prior to the start of counting. Effectively, any theoretical security gains which come from the introduction of per-ballot envelopes will be lost if nobody has the ability to look at and evaluate the envelopes prior to counting. (You might consider this analogous to the situation where we must "investigate" a previously-registered EDR voter appearing to vote in the final minutes of Election Night.)

I would recommend that you consider adding a process similar to that of 9-140c for marking returned ballots as received, sorting them by district, and allowing a window of time to ensure that they are properly marked as voting on the final list sent to the polling place. Preparing the ballots for counting in this manner could be done by the clerks, or the ballots could be returned to the Registrars prior to the election for this purpose.

Ballot styles and primary eligibility

The language in the proposal adapting election day registration into a common process with early voting and expanding it into primaries leaves two questions open:

> 1) Will "early voting" ballots will be able to share a common ballot style with an existing voting method (such as absentee, polling place, or EDR ballots), or will they be a separate ballot style requiring separate tabulation?
>
> 2) Will unaffiliated voters will be able to effectuate a party enrollment application without an accompanying registration application at same day primary voting locations, or will the deadlines (in person and by mail) to change parties in advance of a primary remain unchanged?

I would suggest that the committee provide clear guidance in the final version of this policy that clarifies these matters.

Staffing requirements

I have heard a number of conflicting descriptions of what the intended staffing levels for an early voting location will be – whether it will resemble a polling place, or the more minimal requirements necessary for Election Day Registration.

I would advise the committee that my experience shows that absentee ballot counting teams can reliably open, examine, and submit to the tabulator approximately 100 ballot envelopes per hour. We lack reliable estimates about utilization of early voting, but the expanded number of teams needed to perform this counting will make a substantial difference in planning and budgeting for this

Testimony on An Act Concerning Absentee Voting (Support with Revisions)
HB 6693

I strongly support the concept introduced in HB 6693 that expands postage paid return envelopes to absentee ballots. While I welcome the elimination of all costs to voters interacting with the election process, and have been proud to provide postage paid voter registration and town-supplied rides to the polls as voter services in my community, absentee ballots are a logical place to eliminate cost as it creates obstacles both for students and military voters seeking to return ballots to their home communities, as well as documented problems with partisan actors taking custody of ballots from senior or low-income voters.

I also welcome the concept of a uniform "cure" process for absentee ballots with disqualifying technical problems, including issues created by innocent voter mistakes such as unsigned envelopes and ballots placed in the wrong envelope, as well as technical errors such as data entry mistakes or voters being given the incorrect ballot which may only be discovered at the time of counting.

However, voters using absentee ballots must certify that they were unable to appear at their polling place due to one of several required reasons, and as such it doesn't seem reasonable to assume that these voters would be able to respond in the short period of time provided in this bill (between six and eight o'clock on election night) to correct or re-vote their ballot, and doing so could potentially expose them to claims of falsifying their absentee ballot applications.

As Section 2 of the bill references the provisional ballot language in 9-232i (et seq), I would suggest and recommend that the cure process advanced by the committee take advantage of the timeline already in statute for provisional balloting (within six days) to permit voters with timely-submitted ballots to cure any defect which caused their rejection, and amend the availability of provisional ballots to non-Federal elections and contests offices. This would not only allow a reasonable amount of time to investigate, contact, cure, and count these ballots, but it would allow provisional voters to submit a full ballot, reduce costs by eliminating the need to prepare an extra ballot type specifically for provisional balloting, and do so without altering or extending the reporting dates which already exist in statute.